

NOT DESIGNATED FOR PUBLICATION  
**ARKANSAS SUPREME COURT**  
No. CR 06-1236

MICHAEL LOVE  
Appellant

v.

STATE OF ARKANSAS  
Appellee

Opinion Delivered April 12, 2007

PRO SE MOTION FOR DUPLICATION  
OF APPELLANT'S BRIEF AT PUBLIC  
EXPENSE [CIRCUIT COURT OF  
PULASKI COUNTY, CR 2004-4921,  
HON. BARRY SIMS, JUDGE]

MOTION DENIED.

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**PER CURIAM**

In 2005, appellant Michael Love entered a plea of guilty to first-degree battery, possession of a firearm by a felon, and statutory enhancement of the battery count committed in the presence of a child. He was sentenced as an habitual offender to an aggregate term of 300 months' imprisonment. Subsequently, appellant timely filed in the trial court a petition for postconviction relief pursuant to Ark. R. Crim. P. 37.1, which was denied. This court granted a motion filed by appellant to proceed with a belated appeal of the order. *Love v. State*, CR 06-1236 (Ark. Jan. 4, 2007) (per curiam).

Appellant, who is in the custody of the Arkansas Department of Correction and proceeding pro se, sought and was granted access to the record to prepare his brief and an extension of thirty days' time to file the brief. *Love v. State*, CR 06-1236 (Ark. February 8, 2007) (per curiam). Appellant timely tendered one copy of the brief with the instant motion asking that the brief

be duplicated at public expense.

A Rule 37.1 proceeding is a civil proceeding, separate and distinct from the underlying criminal conviction. *Arkansas Public Defender Commission v. Greene County Circuit Court*, 343 Ark. 49, 32 S.W.3d 470 (2000); *Dyer v. State*, 258 Ark. 494, 527 S.W.2d 622 (1975). There is no right under our rules or any constitutional provision to have a brief or a portion of a brief in a postconviction or other civil case duplicated at public expense. *See Maxie v. Gaines*, 317 Ark. 229, 876 S.W.2d 572 (1994) (per curiam). Nevertheless, in those cases where the indigent appellant makes a substantial showing in a motion that the appeal has merit and that he or she cannot provide the court with a sufficient number of copies of the brief, we will request that the Attorney General duplicate the brief.

In the motion at bar appellant has failed to offer any showing of substantial merit to the appeal. Accordingly, he has not shown that the brief should be duplicated at public expense. Our clerk is directed to return the tendered brief to the appellant so that he may duplicate it. Seventeen copies of the brief are due here no later than fifteen days from the date of this opinion.

Motion denied.